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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/283,676	04/01/1999	KARL G. AUERBACH	CISCP074	1300
22434	7590	11/13/2003	EXAMINER	
BEYER WEAVER & THOMAS LLP			NAJJAR, SALEH	
P.O. BOX 778			ART UNIT	PAPER NUMBER
BERKELEY, CA 94704-0778			2157	17

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/283,676	AUERBACH, KARL G.	
	<b>Examiner</b> Saleh Najjar	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) 23-28 is/are withdrawn from consideration.
- 5) Claim(s) 1-12 is/are allowed.
- 6) Claim(s) 13-15 and 29-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. . | 6) <input type="checkbox"/> Other: _____ .                                   |

Art Unit: 2157

1. This action is responsive to the communication filed on August 28, 2003. Claims 1-15, 23-38 are pending. Applicant elected with traverse group I claims 1-15, 29-38. The restriction requirement made in the previous office action will remain and is made final. Claims 23-28 will not be considered in this office action. The applicant is requested to explicitly cancel group II claims 23-28 in response to this office action.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 13-15, and 29-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Rabinovich, U.S. Patent No. 6,484,204 (referred to hereafter as Rab).

Rabinovich teaches the invention as claimed including a system and method for allocating requests for objects and managing replicas of objects on a network (see abstract).

As to claim 13, Rabinovich teaches a method of loading content to a server in anticipation of a need for the content by network clients, the method comprising:

predicting the location of at least one client not currently requesting the content but that is likely to access the content (see figs. 1-11; col. 7, lines 27-32, Rab discloses that clients are anticipated to request content from a server residing within their geographic region);

determining a first proximity between the at least one client and a first server not currently storing but capable of storing and serving the content; determining a second proximity between the at least one client and a second server not currently storing but capable of storing and serving the content; and based upon the relative values of the first and second Proximities, loading the content into one of the first server and the second server (see col. 7-8, Rab discloses calculating the distance metric between the client and all available hosts capable of storing or replicating the content).

As to claim 14, Rab teaches a method of loading content to a server in anticipation of need by network clients, the method comprising:

- (a) determining the location of a client or group of clients that require access to the content (see col. 7-8, Rab discloses that clients are anticipated to make requests to servers in their regional area);
- (b) identifying a first server currently storing the content and serving the client's requirements for access to the content (see col. 7, Rab discloses that a server storing the replica is identified);
- (c) identifying a second server that does not currently store said content but that has the capability of storing and serving the content (see col.8, Rab discloses that a server is identified that can potentially have the data replicated thereto);
- (d) determining a first proximity between the first server and the client or group of clients (see col.7, lines 34-40, Rab discloses that a distance metric is calculated between the client and a first server holding the replica);
- (e) determining a second proximity between the second server and the client or group of clients, wherein at least one of the first and second Proximities is determined by at least one of the following factors, the factors weighted based on the type of content to be loaded: congestion, noise and loss on a network segment, and charges incurred to send ; and (f) if the relative values of the first and second Proximities meet a defined constraint, loading the content to the second server (see col.7-8; col.21, Rab discloses that distance and request metrics are calculated based on the client request and certain metric conditions prompt the system to replicate the requested object to a second server).

As to claim 15, Rab teaches the method of claim 14, wherein (d) includes determining whether the server and the client or group of clients are on the same sub-network (see col. 7-10).

Claims 29 doe not teach or define any new limitations above claims 13-15 and therefore are rejected for similar reasons.

As to claims 30-35, Rab teaches the system of claim 29 above wherein the interface, processor, and memory are provided on a router, wherein the interface,

processor, and memory are provided on a PC or workstation, further comprising an operating system, a video server running on the operating system, a mass storage device capable of storing content and a mass storage controller capable of controlling access to content stored in the mass storage device, and one or more proximity determining tools (see col. 7-21).

Claims 36-38 do not teach or define any new limitations above claims 13-15, 29-35 and therefore are rejected for similar reasons.

4. Claims 1-12 are allowed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne, can be reached on (703) 308-7562.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The central official fax number for the group is (703) 872-9306.



Saleh Najjar

Primary Examiner / Art Unit 2157